

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of California American Water Company (U 210 W) for an order authorizing it to increase its rates for water service in its Monterey District to increase revenues by \$9,456,100 or 32.88% in the year 2006; \$1,894,100 or 4.95% in the year 2007; and \$1,574,600 or 3.92% in the year 2008; and for an order authorizing sixteen Special Requests with revenue requirements of \$3,815,900 in the year 2006, \$5,622,300 in the year 2007, and \$8,720,500 in the year 2008; the total increase in rates for water service combined with the sixteen Special Requests could increase revenues by \$13,272,000 or 46.16% in the year 2006; 7,516,400 or 17.86% in the year 2007; and \$10,295,100 or 20.73% in the year 2008.

Application 05-02-012
(Filed February 28, 2005)

In the Matter of the Application of California-American Water Company (U 210 W) for Authorization to Increase its Rates for Water Service in its Felton District to increase revenues by \$796,400 or 105.2% in the year 2006; \$53,600 or 3.44% in the year 2007; and \$16,600 or 1.03% in the year 2008; and for an order authorizing two Special Requests.

Application 05-02-013
(Filed February 28, 2005)

**ADMINISTRATIVE LAW JUDGE'S RULING
FINDING FELTON FRIENDS OF LOCALLY OWNED WATER AND
PUBLIC CITIZEN ELIGIBLE TO CLAIM INTERVENOR COMPENSATION**

1. Summary

Pursuant to Article 5 of the Public Utilities Code, Section 1801 *et seq.*, and Article 18.8 of the Commission's Rules of Practice and Procedure (Rules), Rules 76.71-76.76, on May 5, 2005 Felton Friends of Locally Owned Water (Felton FLOW) and Public Citizen filed their Notices of Intent to Claim Intervenor Compensation (NOIs).¹ On May 20, 2005, California-American Water Company (Cal-Am) filed a response opposing both NOIs. This ruling finds both Felton FLOW and Public Citizen eligible for an intervenor compensation award.² Felton FLOW makes a showing of significant financial hardship in its NOI; Public Citizen states it prefers to make its showing of significant financial hardship when it files its request for compensation. We find Felton FLOW has established significant financial hardship pursuant to Section 1802(g).

2. Intervenor Compensation Requirements

The intervenor compensation program set forth in Section 1801 *et seq.* allows public utility customers to receive compensation for their participation in Commission proceedings. To receive an award, a customer must make a substantial contribution to the adoption of the Commission's order or decision and demonstrate that participation without an award would impose a significant financial hardship.³

¹ All references are to the Public Utilities Code sections and the Commission's rules.

² Felton FLOW filed its NOI in Application (A.) 05-02-013 and Public Citizen filed its NOI in A.05-02-012. The May 31, 2005 Assigned Commissioner and Administrative Law Judge's Ruling and Scoping Memo consolidated these proceedings for the purposes of evidentiary hearings.

³ Section 1803.

Section 1804 requires a customer who intends to seek an award to file and serve an NOI to claim intervenor compensation within 30 days after the prehearing conference. The NOI must include a statement of the nature and extent of the customer's planned participation, and an itemized estimate of the compensation the customer expects to request. The customer's showing of significant financial hardship may be included with the NOI or may be included with the request for award after the Commission's final decision in the proceeding.

To determine eligibility, two questions must be addressed: whether the intervenor is a "customer" as defined in Section 1802(b), and whether participation will present a significant financial hardship.⁴ The Administrative Law Judge's ruling should also identify which type of customer the intervenor is: a participant representing consumers, customers or subscribers; a representative authorized by a customer; or a representative of a group or organization authorized by its bylaws or articles of incorporation to represent the interests of residential customers. A finding of significant financial hardship creates a rebuttable presumption of eligibility in other Commission proceedings commencing within one year of the date of that finding.

3. Felton FLOW's NOI

Felton FLOW timely filed its NOI within 30 days of the April 5, 2005 prehearing conference. It states it is a nonprofit organization comprised of residential ratepayers of Cal-Am's water service who live in Felton, California; and it is authorized under its bylaws to represent the interests of residential

⁴ Decision (D.) 98-04-059.

customers; therefore, it meets the definition of a customer within the meaning of Section 1802(b)(C).

Felton FLOW states it intends to fully and actively participate in this proceeding and will focus its efforts on deficiencies in Cal-Am's management, operation, and maintenance of the Felton District, capital costs that are not necessary at this time and should not be included in rates, and other costs included in Cal-Am's rate application that should not be passed through to ratepayers. Felton FLOW provides a breakdown of \$32,740 in estimated expenses and states it will provide time records, expense records, and justification for hourly rates in its request for an award of compensation. It asserts it will represent residential interests that would otherwise be underrepresented and it has met with other parties to coordinate its participation and minimize duplication.

In its NOI, Felton FLOW also seeks a finding that participation in this proceeding will pose a significant financial hardship. Based on the finding of significant financial hardship made in a December 15, 2004 ruling in A.04-08-012, Felton FLOW enjoys a rebuttable presumption of eligibility for compensation in this proceeding. In addition, Felton FLOW provides an independent justification for its significant financial hardship eligibility based on the definitional criteria of Section 1802(g).

On May 20, 2005, Cal-Am filed a response to this NOI urging the Commission to find Felton FLOW ineligible for intervenor compensation because Cal-Am asserts Felton FLOW will not make a substantial contribution to the proceeding, its participation will be duplicative, and granting intervenor compensation will further burden ratepayers. The issues raised by Cal-Am are speculative. Felton FLOW should be given the opportunity to demonstrate it can

make a substantial contribution, its participation will not be unnecessarily duplicative, and its request for compensation will be reasonable and cost-effective for ratepayers.

Based on a review of the NOI and Cal-Am's response, and after consulting with the Assigned Commissioner, I find that Felton FLOW has met the NOI filing requirements of Sections 1804(a) and (b), to include a showing of financial hardship, and is eligible to seek an award under the intervenor compensation program. The determination of what compensation, if any, Felton FLOW should be granted will come only when it files its request for compensation after the issuance of a final order in this proceeding, and demonstrates that it has made a substantial contribution to that order.

4. Public Citizen's NOI

Public Citizen timely filed its NOI and makes a showing that it meets the definition of a customer under the criteria of Section 1802(b)(C). Public Citizen states it defines consumers as utility ratepayers, including residential and small business customers, and it intends to represent in this proceeding low-income customers who are likely to be impacted by Cal-Am's proposed rate increases.

Public Citizen states it intends to actively participate in this proceeding and provides a \$79,509 breakdown of its estimated expenses. It asserts it will take great care to ensure that its participation complements that of the other parties and avoids any undue duplication wherever practicable. Public Citizen does not make a showing of significant financial hardship in its NOI, preferring to make this showing when it files its Request for Compensation, as permitted under Section 1804(a)(B).

On May 20, 2005, Cal-Am filed a response to this NOI urging the Commission to find Public Citizen ineligible for intervenor compensation

because Cal-Am asserts Public Citizen will not make a substantial contribution to the proceeding, its participation will be duplicative, and granting intervenor compensation will further burden ratepayers. The issues raised by Cal-Am are speculative. Public Citizen should be given the opportunity to demonstrate it can make a substantial contribution, its participation will not be unnecessarily duplicative, and its request for compensation will be reasonable and cost-effective for ratepayers.

Based on a review of the NOI and Cal-Am's response, and after consulting with the Assigned Commissioner, I find that Public Citizen has met the NOI filing requirements of Sections 1804(a) and is eligible to seek an award under the intervenor compensation program. The determination of what compensation, if any, Public Citizen should be granted will come only when it files its request for compensation after the issuance of a final order in this proceeding and demonstrates that it has made a substantial contribution to that order.

IT IS RULED that:

1. Felton Friends of Locally Owned Water (Felton FLOW) and Public Citizen have timely filed notices of intent to claim compensation that meet the applicable requirements under Section 1804(a).
2. Both Felton FLOW and Public Citizen meet the definition of "customer" set forth in Section 1802(b)(C).
3. Felton FLOW has shown that its participation in this proceeding without an award of fees or costs would impose a significant financial hardship.
4. Felton FLOW and Public Citizen are eligible to seek an award of intervenor compensation in this proceeding. This finding of eligibility in no way assures either party will be awarded compensation.

Dated July 6, 2005, at San Francisco, California.

/s/ CHRISTINE M. WALWYN

Christine M. Walwyn
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Finding Felton Friends of Locally Owned Water and Public Citizen Eligible to Claim Intervenor Compensation on all parties of record in this proceeding or their attorneys of record.

Dated July 6, 2005, at San Francisco, California.

/s/ KE HUANG

Ke Huang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.